IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR.
:::
O R D E R

Mandir Shri Ramchandraji Sthan Deogarh
vs.
State of Rajasthan & ors.

S.B. CIVIL WRIT PETIION NO.1003/1993 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 17th Sept., 2007

PRESENT
HON'BLE MR. JUSTICE PRAKASH TATIA

Mr.Tribhuwant Gupta, for the petitioner.
Mrs. RR Kanwar, Dy. GA for the State.
Mr. Ravi Bhansali, for the respondent no.3.

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BY THE COURT:

Heard learned counsel for the parties.

The petitioner is aggrieved against the land acquisition proceedings initiated by the respondents by issuing notification under Section 4 of the Land Acquisition Act on 5.1.1978 in relation to land belonging to temple Shri Ramchandraji of village Deogarh having khasras nos. 669, 670, 671, 672, 673 and 674 on the ground that though the notification was issued on 18th May, 1978 under Section 4 of the Land Acquisition Act, but the notification under Section 6 read with Section 17(4) was issued on 7th Nov., 1987 after

about 9 years from the date of notification under Section 4. Further no award has yet been passed by the land acquisition officer and, therefore, all the proceedings initiated by issuing notification under Section 4 dated 18th May, 1978 has lapsed.

The litigation has chequered history in view of the fact that this writ petition has been filed in the name of temple Shri Ramchandraji through its manager Madanmohan S/o Chimanlalji. The same person Madanmohan filed a writ petition to challenge these very land acquisition proceedings in his own name on 18.2.1988 and the same was registered as SBCWP No.464/1988 and by order of this Court dated 19.2.1988 the notices of the writ petition were issued to the respondents. The respondent no.3 Krishi Upaj Mandi Samiti, Pratapgarh submitted the reply to the writ petition on 7.8.1989 wherein a copy of the order passed by the Board of Revenue dated 18th July, 1974 was submitted by the respondent no.3 and it was submitted that the petitioner Madanmohan has no right to file the writ petition on behalf of the temple as the petitioner's claim was that he is successor of one Chimanlal who became khatedar tenant of the land in dispute by virtue of operation of law whereby the khatedari tenancy rights have been given to the Sikmi kastkar of the land of Jagirdars of Doli land and that claim of the petitioner

Madanmohan was also rejected by the revenue authorities in the proceedings initiated long back before the year 1971. According to respondent no.3 one Sitaramdas was the Pujari of the temple in question but wrongly the name of Chimanlalji was entered in the revenue record against the land of the temple showing Chimanlalji as Sikmi kastkar. Sitaramdas challenged the mutation order by which Chimanlalji's name was entered in the revenue record before the Addl. Collector, Chittorgarh. Agaisnt the order of the Tehsildar, Pratapgarh dated 10th Dec., 1967, Sitaramdas's appeal was rejected by the learned Addl. Collector vide order dated 25th Oct., 1969. Being aggrieved against the said order, Sitaramdas preferred an appeal before the Revenue Appellate Authority, Udaipur, which was allowed on 17th Nov., 1971. Being aggrieved against the order of the Revenue Appellate Authority dated 17th Nov., 1971, Chimanlalji preferred revision petition before the Board of Revenue, which was dismissed by the Board of Revenue vide order dated 17th July, 1974 and the Revenue Appellate Authority, Udaipur as well as Board of Revenue held that the land in question belonging to the temple could not have been entered in the name of Chimanlalji. Faced with this situation, the petitioner Madanmohan submitted an application for amendement of the writ petition no.464/1988.

On this application, no order was passed by this Court. However, the petitioner submitted amended writ petition on 24th May, 1988. The petitioner Madanmohan withdrew the writ petition no.464/1988 on 25.1.1993 after obtaining liberty from this Court to file fresh writ petition. It appears that the petitioner was advised to file writ petition in the name of temple as he could not have maintained the writ petition in his name, therefore, he withdrew the writ petition no.464/1988 and filed this writ petition.

In this writ petition,the petitioner disclosed himself to be the manager of the temple Shri Ramchandraji, Deogarh and has challenged the same land acquisition proceedings, which was initiated by issuing notification of 1987. The grounds are same grounds, which were taken in the earlier writ petition and some more grounds are also added by the petitioner in the present writ petition. The objection of the petitioner which goes to the root of the matter is that land acquisition proceedings have already lapsed as the notification under Section 6 was not published within the period as prescribed by law. At this juncture, it will be worthwhile to mention here that earlier in the State of Rajasthan, the State Act for land acquisition was applicable, which was known as Rajasthan Land Acquisition Act, 1953, therefore, notification under

Section 4 was issued under the old Act but before any notification under Section 6 of the Act of 1953 could have been issued, the Land Acquisition Act, 1817 was amended in the year 1984 by the Land Acquisition Amendment Act, 1984. Subsequently, this Act was adopted by the State of Rajasthan also and within the period prescribed by Section 6 of the Amended Act for publication of notification under Section 6, no notification was published and further no award was passed within the prescribed period of limitation by the land acquisition officer in this matter. The fact that notification under Section 6 or award under the Land Acquisition Act have not been passed in time is not disputed fact. The objection of the respondent no.3 Krishi Upaj Mandi Samiti is that the petitioner Madanmohan had no locus standi to challenge the land acquisition proceedings in any capacity, may it be, in the name of the temple or in capacity as Pujari or as a person interested. The petitioner's oblique motive is apparent from the fact that the petitioner tried to garb the land by showing himself to be the decedent of Sikmi kastkar Chimanlalji and he filed the writ petition no.464/1988 for getting the land acquisition proceedings quashed so as to get the land for himself. That writ petition was dismissed by this court vide order dated 25.1.1993 though with liberty to the petitioner to

file fresh writ petition. Still position remain same that the petitioner is neither the manager of the temple nor has any locus standi to challenge the land acquisition proceedings.

I considered the submissions of learned counsel for the parties and perused the record also as well as considered the order passed by the Board of Revenue dated 18th July, 1974 and also perused the affidavit which alleged to have been given by the Pujari of the temple Sitaramdas who in affidavit stated that he has no objection to the land acquisition proceedings. However, copy of the affidavit is not on record which according to learned counsel for the respondent was filed alongwith the writ petition.

So far as preliminary objection about the locus standi of the petitioner is concerned, it will be relevant to mention here that the writ petition has been filed in the name of temple Shri Ramchandraji, Deogarh, therefore, the writ petition is on behalf of the temple. The person Madanmohan has shown himself to be the manager of the temple by disclosing in the cause title itself and also was recorded as manager in the revenue record. In the writ petition it is again stated that Chimanlalji was the Sikmi kastkar and he died on 7th May, 1983 and Madanmohan has no intention to jeopardize the interest of any of the personal heirs of late Shri Chimanlalji

and thereafter, stated that "*.....writ is bieng filed on behalf of the petitioner through Shri Madan Mohan son of Chimanlalji Brahiman who has also been recorded in revenue record as Manager.*" It may be true that the petitioner tried to assert his own right also on the basis of the certain revenue entries made in the name of Madanmohan's father Chimanlalji, but those entries are of no consequence and are absolutely irrelevant in view of the binding decision rendered by the Board of Revenue in its order dated 18th July, 1974. The land is temple land in view of the said order of the Board of Revenue and land was treated to be land of temple by the respondents themselves. Therefore, the lands referred above and mentioned in the writ petition are the land of the temple. Madanmohan's case is that for establishing his right over the land in question, he has filed the suit for declaration in the revenue court and that was pending at the time of filing of the rejoinder by the petitioner. Be that as it may be, it cannot be said that the said Madanmohan was not an interested person in the properties of the temple Ramchandraji, Deogarh as manager or otherwise when he filed the writ petition. The present writ petition is on behalf of the temple and the temple is a perpetual minor is the position recognized by law. Therefore also Madanmohan if to save the property of minor

(temple) has filed the writ petition,the writ petition of the petitioner of temple cannot be dismissed only because of the some claim of Madanmohan raised on earlier occasion against the interest of the temple. Therefore, treating the person Madanmohan to be the representative of the temple Ramchandraji, the writ petition held to be competent.

The facts are not in dispute that the land acquisition proceedings lapsed because of lapse of period of limitation for issuing notification under Section 6 of the Land Acquisition Act as well as because of not passing the award in time. The end of the land acquisition proceedings because of lapse of time is automatic and needs no order of any competent authority. In view of this position, the respondents cannot proceed with the land acquisition proceedings when they are knowing it well that law does not allow them to proceed with the land acquisition proceedings and take possession of the property.

At this stage it will be worthwhile to mention here that the respondent no.3 has shown the copy of the affidavit submitted by the Pujari of the temple Sitaramdas. Sitaramdas has not disclosed in the affidavit how the land acquisition proceedings is in the interest of the temple and for the reasons best known to him he wants to give away the immovable property of the temple to the respondents then he

cannot be a person competent to protect the interest of the temple. In view of the facts came on record, the property is the property of the temple and land acquisition proceedings initiated by issuing notification under Section 4 dated 18th May, 1978 has lapsed, therefore, the notification issued under Sections 4, 6 as well as the notice under Section 9 are of no consequence and it is declared that land acquisition proceedings in question have lapsed by time.

It is made clear that Madanmohan's any personal right has not been declared in this writ petition because of the plain and simple reason that writ petition is on behalf of the temple and Madanmohan was permitted to protect the land treating the land to be the land of temple only. Therefore, by virtue of this order said Madanmohan or any of the successor of Chimanlal shall not have any right which they are not possessing otherwise.

In view of the above, the writ petition of the petitioner is allowed .

(PRAKASH TATIA), J.

c.p.goyal/-